



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0109]

RIN 1625-AA08

Special Local Regulations for Marine Events; Temporary
Change of Dates for Recurring Marine Events in the Fifth
Coast Guard District, Bogue Sound; Morehead City, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the enforcement period of a special local regulation for a recurring marine event in the Fifth Coast Guard District. This change applies only to the "Crystal Coast Super Boat Grand Prix" conducted on the waters of Bogue Sound near Morehead City, North Carolina. This Special Local Regulation is necessary to provide for the safety of life on navigable waters during the event, which has been rescheduled from the fourth or last Sunday in September to the third Saturday and Sunday in September. This regulation would close a portion of the waters of Bogue Sound to vessel traffic during the boat race.

DATES: Comments and related material must be received by

the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2012-0109 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail BOSN3 Joseph M. Edge, Coast Guard Sector North Carolina, Coast Guard; telephone 252-247-4525, e-mail Joseph.M.Edge@uscg.mil. If you have questions on viewing or submitting material to the docket,

call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0109), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that

we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2012-0109" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2012-0109" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation

West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1233, which authorizes the Coast Guard to define special local regulations for specified areas on navigable waters.

The purpose of this rulemaking is to ensure the safety of life on navigable waters during marine events and provide the marine community the opportunity to comment on regulated area locations, size, and length of time the special local regulation will be active.

Background

On September 15-16, 2012 from 10 a.m. to 4 p.m. East Coast Extreme Corporation will sponsor "The Crystal Coast Super Boat Grand Prix" on the waters of Bogue Sound adjacent to Morehead City, North Carolina. This special local regulation is necessary to ensure the safety of vessels and spectators from hazards associated with a powerboat race. The Captain of the Port North Carolina has determined powerboat races in close proximity to other watercraft and waterfront infrastructure pose significant risk to public safety and property. The likely combination of large numbers of recreational vessels, powerboats traveling at high speeds, and large numbers of spectators in close proximity to the event area poses risks that could result in serious injuries or fatalities. Special local regulations are in effect annually, defining a buffer or regulated area that prohibits vessels or persons from entering the race course. The regulated area that encompasses the event location will help ensure the safety of persons and property during the power boat race and minimize associated risk.

The regulations at 33 CFR §100.501 lists recurring marine events within the Fifth Coast Guard District and marine event dates. The Table to §100.501 identifies marine events by Captain of the Port zone. This particular marine event is listed in the Table to §100.501 (d.)3.

The regulation in the Table to §100.501 line (d.)3 indicates the Crystal Coast Super Boat Grand Prix would normally take place this year on September 23, 2012. This regulation temporarily changes the event date for this year to September 15-16, 2012.

To provide for the safety of the participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during this event. The regulation at 33 CFR 100.501 would be enforced from 10 a.m. to 4 p.m. on September 15-16, 2012; vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

Discussion of Proposed Rule

The Coast Guard is proposing to temporarily suspend the regulation listed at line No. (d.)3 in Table to §100.501 and will insert a new temporary regulation at Table to §100.501 line No. (d.)5. This change will reflect a new date for this year's marine event, i.e. September 15-16, 2012. This change is needed to accommodate the change in date of the annual Crystal Coast Super Boat Grand Prix. No other

portion of the Table to §100.501 or other provisions in §100.501 shall be affected by this regulation.

This safety zone will restrict vessel movement on the specified waters of Bogue Sound adjacent to Morehead City, North Carolina. The regulated area will be established in the interest of participant safety during the "Crystal Coast Super Boat Grand Prix" and will be enforced from 10 a.m. to 4 p.m. on September 15-16, 2012. The Coast Guard, at its discretion and when practical, will allow the passage of vessels. During the Marine Event no vessel will be allowed to transit the waterway unless the vessel is given permission from the Patrol Commander to transit.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation will restrict access to the area, the effect of this rule will not be significant because the regulated area will be in effect for a limited time, from 10 a.m. to 4 p.m., on September 15-16, 2012. The Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and the regulated area will apply only to the section of Bogue Sound adjacent to Morehead City. Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz). Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR § 100.501, Table to § 100.501. Vessel traffic will be able to transit the regulated area before and after the races, when the Coast Guard Patrol Commander deems it is safe to do so. Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are

independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the specified portion of Bogue Sound from 10 a.m. to 4 p.m. on September 15-16, 2012.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will only be in effect for six hours each day for two days. The regulated area applies only to the section of Bogue Sound adjacent to Morehead City and traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule

would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact BOSN3 Joseph Edge, Prevention Department, Sector North Carolina, 252-247-4525. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and

determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental

Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination, under figure 2-1, paragraph 34(h) of the Instruction, that this action is one of a category of actions that do not individually or cumulatively have a

significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. This proposed rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. This special local regulation is necessary to provide for the safety of the general public and event participants from potential hazards associated with movement of vessels near the event area. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100-SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C 1233.

2. From September 15, through September 23 2012, in §

100.501, Table to §100.501, suspend entry (d)3.

3. From 10 a.m. to 4 p.m. on September 15-16, 2012 in § 100.501, Table to § 100.501, add entry (d.)5 to read as follows:

§ 100.501-T05-0109 Special Local Regulations; Recurring Marine Event in the Fifth Coast Guard District

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TABLE TO § 100.501

All coordinates listed in the Table to § 100.501 reference Datum NAD 1983.

(d.) Coast Guard Sector North Carolina - COTP Zone				
No.	Date	Event	Sponsor	Location
* 5	* September 15-16, 2012	* Crystal Coast Super Boat Grand Prix	* East Coast Extreme	* The waters of Bogue Sound, adjacent to Morehead City, NC, from the southern tip of Sugar Loaf Island approximate position latitude 34°42'55" N, longitude 076°42'48" W, thence westerly to Morehead City Channel Day beacon 7 (LLNR 38620), thence southwest along the channel line to Bogue Sound Light 4 (LLRN 38770), thence southerly to Causeway Channel Day beacon 2 (LLNR 38720), thence southeasterly to Money Island Day beacon 1 (LLNR 38645), thence easterly to Eight and One Half Marina Day beacon 2 (LLNR 38685), thence easterly to the westernmost shoreline of Brant Island approximate position latitude 34°42'36" N, longitude 076°42'11" W, thence northeasterly along the shoreline to Tombstone Point approximate position latitude 34°42'14" N, longitude 076°41'20" W, thence southeasterly to the east end of the pier at Coast Guard Sector North Carolina approximate position latitude 34°42'00" N, longitude 076°40'52" W, thence easterly to Morehead City Channel Buoy 20 (LLNR 29427), thence northerly to Beaufort Harbor Channel LT 1BH (LLNR 34810), thence northwesterly to the southern tip of Radio Island approximate position latitude 34°42'22" N, longitude 076°40'52" W, thence northerly along the shoreline to

				approximate position latitude 34°43'00" N, longitude 076°41'25" W, thence westerly to the North Carolina State Port Facility, thence westerly along the State Port to the southwest corner approximate position latitude 34°42'55" N, longitude 076°42'12" W, thence westerly to the southern tip of Sugar Loaf Island the point of origin. .
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Dated: February 20, 2012

A. POPIEL
Captain, U.S. Coast Guard
Captain of the Port North Carolina

[FR Doc. 2012-6314 Filed 03/14/2012 at 8:45 am; Publication
Date: 03/15/2012]